



Attorney's Docket No. DVL-003PAT

*zw*  
*AFB*  
**PATENT**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

**In re application of: Donald V. Lightcap et al.**

**Serial No.: 09/128,753**

**Group No.: 1616**

**Filed: August 4, 1998**

**Examiner: Alton Pryor**

**For: COMPOSITION, METHOD, AND APPARATUS FOR PROTECTING  
PLANTS FROM INJURY CAUSED BY FROST OR FREEZING  
TEMPERATURES**

**Mail Stop: AF  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450**

**AMENDMENT OR RESPONSE AFTER FINAL REJECTION – TRANSMITTAL  
(37 CFR 1.116)**

- 1. Transmitted herewith is an amendment after final rejection (37 CFR 1.116) for this application.**
- 2. Applicant is**

  X   a small entity. A verified statement:

       is attached.

  X   was already filed.

       other than a small entity.

**CERTIFICATE OF MAILING/TRANSMISSION (37 CFR 1.8a)**

**I hereby certify that this correspondence is, on the date shown below, being:**

**MAILING**

  X   is deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to the Commissioner for Patents, Mail Stop: AF P. O. Box 1450, Alexandria, VA 22313-1450 on May 31, 2005.

**FACSIMILE**

       Transmitted by facsimile to the Patent and Trademark Office on May 2, 2003, fax no. 703-746-4996.

Signature: 

Mark F. Smith

(Type or print name of person certifying)

**Date: May 31, 2005**

3.

### EXTENSION OF TERM

NOTE- "Extension Of Time in Patent Cases (Supplement Amendments) - if a timely and complete response has been filed after a Non-Final Office Action, an extension of time is not required to permit filing and/or entry of an additional amendment after expiration of the shortened statutory period.

*If a timely response has been filed after a Final Office Action; an extension of time is required to permit filing and/or entry of a Notice of Appeal or filing and/or entry of an additional amendment after expiration of the shortened statutory period unless the timely filed response placed the application in condition for allowance. Of course if a Notice of Appeal has been filed within the shortened statutory period, the period has ceased to run." Notice of December 10, 1985 (1061 O.G. 34-5).*

NOTE- See 37 CFR 1.645 for extensions of time in interference proceedings, and 37 CFR 1.550(c) for extensions of time in reexamination proceedings.

**The proceedings herein are for a patent application and the provisions of 37 CFR 1.136 apply.**

*(complete (a) or (b), as applicable)*

- (a)   x   Applicant petitions for an extension of time under 37 CFR 1.136  
(fees: 37 CFR 1.17(a)-(d) for the total number of months checked below:

Extension (months)	Fee for other than <u>small entity</u>	Fee for <u>small entity</u>
<u>  x  </u> one month	\$120.00	\$ 60.00
<u>      </u> two months	\$450.00	\$225.00
<u>      </u> three months	\$1,020.00	\$510.00
<u>      </u> four months	\$1,590.00	\$795.00

Fee \$60.00

If an additional extension of time is required, please consider this a petition therefor.

*(check and complete the next tern, it applicable)*

- (a)        An extension for                      months has already been secured and the fee paid therefore of \$                      is deducted from the total fee due for the total months of extension now requested.

Extension fee due with this request \$ 60.00

**OR**

- (b)        Applicant believes that no extension of term is required. However this conditional petition is being made to provide for the possibility that applicant has inadvertently overlooked the need for a petition for extension of time.

4.

**FEE FOR CLAIMS**

The fee for claims (37 CFR 1.16(b)-(d)) has been calculated as shown below:

(Col. 1)	(Col. 2)	(Col. 3)	SMALL ENTITY	OTHER THAN A SMALL ENTITY
CLAIMS REMAINING AFTER PREVIOUSLY AMENDMENT	No. PAID PAID FOR	ADDIT. RATE FEE	ADDIT. OR RATE FEE	
TOTAL	MINUS	=	x 25.00 = x 50.00	\$ 0.00
INDEP	MINUS	=	x 100.00 = x 200.00	\$

ADDITIONAL FEE: \$0.00

\* If the entry in Col. 1 is less than entry in Col. 2, write "0" in Col. 3.

\*\* If the "Highest No Previously Paid for" IN THIS SPACE is less than 20, enter "20".

\*\*\* If the "Highest No. Previously Paid for" IN THIS SPACE is less than 3, enter "3"

The "Highest No. Previously Paid for" (Total or indep.) is the highest number found in the appropriate box in Col. 1 of a prior amendment or the number or claims originally filed.

**WARNING** "After final rejection or action (Section 1.113) amendments may be made canceling claims or complying with any requirement of form which has been made." 37 CFR 1.116(a) (emphasis added).

(complete (c) or (d), as applicable)

(c)  X  No additional fee for claims is required

OR

(d)       Total additional fee for claims required \$0.00

5.

**FEE PAYMENT**

     Attached is a check in the sum of \$ 60.00 .

     Charge Mastercard Number, Form PTO-2038 the sum of \$ 0.00 .  
Form PTO-2038 is attached.

6.

### FEE DEFICIENCY

*NOTE: If there is a fee deficiency and there is no authorization to charge an account additional fees are necessary to cover the additional time consumed in making up the original deficiency. If the maximum six-month period has expired before the deficiency is noted and corrected the application is held abandoned. In those instances where authorization to charge is included, processing delays are encountered in returning the papers to the PTO Finance Branch in order to apply these charges prior to action on the cases. Authorization to charge the depose account for any fee deficiency should be checked. See the Notice of April 7 1~86, (1065 O.G. 31-33).*

If any additional extension and/or fee is required, charge Account No. \_\_\_\_\_.

AND/OR

\_\_\_\_ If any additional fee for claims is required, charge Account No. \_\_\_\_\_.

7.

### OTHER DOCUMENTS ATTACHED

  X   No other documents are attached.

\_\_\_\_\_ The following documents are attached hereto:

Reg.No.: 32,437



SIGNATURE OF ATTORNEY

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**PATENT**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE PRIMARY EXAMINER**

Application of:

Applicant: Donald V. Lightcap, Jr. et al.

Serial No.: 09/128,753

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Art Unit: 1616

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Title: **COMPOSITION, METHOD, AND APPARATUS FOR PROTECTING  
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**AMENDMENT AND RESPONSE TO THE FINAL OFFICE ACTION  
DATED FEBRUARY 10, 2005**

**INTRODUCTORY COMMENTS**

The Amendments to Claim 25 is in response to the new Final Office Action dated February 10, 2005. Claim 25, has been amended as suggested by the Examiner to place it in better order for issuance.

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